

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GLENN A. DAVIS

Appeal No. 1997-1264
Application 07/882,560¹

ON BRIEF

Before JERRY SMITH, FRAHM and BARRY, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134
from the examiner's rejection of claims 1-16, 18-31, 33-67, 69
and 70, which constitute all the claims remaining in the
application. The disclosed invention pertains to

¹ Application for patent filed May 13, 1992.

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a data processing system. More particularly, the invention relates to a procedure for initialization of a central processing unit (CPU) regardless of whether the CPU is operating in a fault-free mode or in a fault mode.

Representative claim 1 is reproduced as follows:

1. A data processing system, comprising:

a central processing unit (CPU), said CPU having a first possible operating state of fault-free operation and a second possible operating state of fault operation;

first means for applying a first signal to said CPU to provide notice of initialization, said CPU operative to complete certain processing tasks in response to said first signal; and

second means for applying a second signal to said CPU subsequent to said first signal and upon expiration of a predetermined time interval to cause the initialization of said CPU regardless of whether the CPU is operating in said first possible operating state or said second possible operating state.

The examiner relies on the following reference:

Guziak et al. (Guziak)	4,726,024	Feb. 16, 1988
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Claims 1-16, 18-31, 33-67, 69 and 70 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Guziak.

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Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Guziak does not fully meet the invention as set forth in the appealed claims. Accordingly, we reverse.

Appellant has indicated that for purposes of this appeal the claims will stand or fall together in the following three groups: Group I has claims 1-15 and 55-67, Group II has claims 16, 18-31 and 33-54, and Group III has claims 69 and 70. Consistent with this indication appellant has made no

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separate arguments with respect to any of the claims within each group. Accordingly, all the claims within each group will stand or fall together. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983). Therefore, we will consider the rejection against independent claims 1, 16 and 69 as representative of all the claims on appeal.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to representative, independent claim 1, the examiner purports to read the invention of this claim on the disclosure of Guziak [answer, pages 4-5]. Appellant argues that Guziak does not disclose the notice of

initialization and does not disclose an apparatus or method that resets a CPU regardless of whether the CPU is operating in a fault-free state or a fault state [brief, pages 9-16]. The examiner asserts that the non-maskable interrupt (NMI) of Guziak operates as a notice of initialization. The examiner also argues that the CPU in Guziak is initialized in a fault-free state because initialization can occur after a transient fault is detected which is a fault-free state in Guziak [answer, pages 13-16]. Appellant responds that the examiner has misconstrued the disclosure of Guziak [reply brief].

We have carefully considered the disclosure of Guziak, and we generally agree with the position of appellant as expressed in the briefs. Most importantly, we agree with appellant that the CPU of Guziak is not initialized or reset when the CPU is in a fault-free operating state. Guziak indicates that if a transient fault has been detected and is corrected by the reinitialization, that fault will not be detected a second time and the CPU resumes suspended operations. Thus, reinitialization has occurred as a result of a transient fault which is a fault state of operation and not a fault-free state as argued by the examiner. In other

words, the reinitialization occurred due to a fault condition of the computer even though the error was transient in nature. The CPU of Guziak is not intended to be reset when the CPU is operating in a fault-free state because Guziak desires to resume operations at the point where operations were interrupted when there is fault-free operation. Hence, we find that Guziak fails to disclose the initialization of the CPU regardless of whether the CPU is operating in the fault-free state or the fault state as recited in claim 1. We also find that Guziak does not disclose a "notice of initialization" because the NMI signal of Guziak is not necessarily followed by an initialization.

Since all the features of independent claim 1 are not present in Guziak, we do not sustain the rejection of claim 1 as anticipated by the disclosure of Guziak. Independent claims 16 and 69 also recite a "notice of an impending initialization" and the initialization of the CPU or reset of the computer in both the fault-free operating state and in the fault operating state. Therefore, we do not sustain the rejection of independent claims 16 and 69 for the same reasons discussed above with respect to claim 1.

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We have not sustained the rejection of any of the representative claims 1, 16 and 69. Therefore, we do not sustain the rejection of any of the claims on appeal before us. The

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decision of the examiner rejecting claims 1-16, 18-31, 33-67,
69 and 70 is reversed.

REVERSED

	Jerry Smith)	
	Administrative Patent Judge)	
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)	
	Eric S. Frahm)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
	Lance Leonard Barry))
	Administrative Patent Judge)	

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